

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, December 5, 2006
Time: 6:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

Mayor Esteves called the meeting to order at 6:00 PM.

PRESENT: Mayor Esteves, Vice Mayor Gomez, Councilmembers Giordano, Livengood and Polanski

CLOSED SESSION

Mayor Esteves publicly stated the Council would immediately convene in Closed Session to discuss the following two issues:

1. Conference with Labor Negotiators for Collective Bargaining: City Negotiator Carmen Valdez with employee group Milpitas Mid Management/Confidential (LIUNA).
2. Conference with Legal Council for existing litigation: Torrez v. City of Milpitas, ABAG Claim No. CL057945

Due to an announcement made on November 29, the following issue was not discussed in the Closed Session: Public Employee Appointment/Employment: Position of City Manager.

The Council convened in Open Session at 7:00 PM, with no announcements.

CLOSED SESSION ANNOUNCEMENT

None

PLEDGE

Boy Scouts Troop No. 92 Color Guard led the Pledge of Allegiance.

INVOCATION

Councilmember Livengood read a story aloud, appropriate for the holiday season, the True Holiday Spirit.

MINUTES

MOTION: approve minutes of November 21, 2006 City Council meeting

Motion/Second: Councilmember Giordano/Councilmember Livengood

Motion carried by a vote of: AYES: 5
NOES: 0

ELECTION MATTERS

RESOLUTION

Councilmember Livengood congratulated the winners on their victory in the recent election, and noted their widespread support in the community.

MOTION: adopt Resolution No. 7639 Confirming the Official Canvass of Returns and Declaring the Results of the General Municipal Election held on November 7, 2006

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

City Clerk Mary Lavelle administered the Oath of Office and presented Certificates of Election to: Mayor Jose Esteves, Councilmember Althea Polanski and Councilmember Armando Gomez. Each then made remarks to the audience and their family members present at the meeting.

Motion carried by a vote of:

AYES: 5

NOES: 0

PUBLIC FORUM

Irene Whiteside, announced that the next day at San Jose Convention Center would be Project Homeless Connect taking place, following a recent survey blitz to count the number of homeless persons. 7,000 persons on the street were counted in this County, 58% with no assistance of any kind. Volunteers were needed to assist.

Dorsey Wiseman, City of Milpitas Senior Building Official, spoke about safety during the holidays. He'd learned about an electrical house fire in Milpitas on this date. With cold weather, fireplace fires, and electrical holiday lights, he noted while these are fun, residents must be careful. Mr. Wiseman advised to watch for and eliminate potential threats, with cooking the leading cause of house fires during the holidays for last few years. He went on to provide specific tips to all.

Mayor Esteves thanked Mr. Wiseman for his thoughtful comments to all residents, homeowners and workers in Milpitas.

ANNOUNCEMENTS

City Manager Charles Lawson announced the appointment of Bonnie Greiner, to the new position of Director of Parks and Recreation. She was promoted through the ranks over the past 17 years in her work with the City. Mr. Lawson noted that the City of Milpitas is a model of recreation programs, in part due to Ms. Greiner. She then thanked the City Council for creating the Parks and Recreation Department. She also thanked City Manager for his support and kind words, along with the City Council, looked forward to the opportunity.

Mr. Lawson noted that this would be his last City Council meeting as he retires on Friday. He thanked the City Council for the opportunity to lead and serve as City Manager and Police Chief of the City of Milpitas. He felt he would leave the City in excellent shape over all, but there were still budget challenges ahead. There was a lean but productive and friendly city staff for the services provided to the community. He stated there were excellent supervisors and managers, and thanked all employees for what they do for the citizens every day. It was an honor to work for the citizens of Milpitas.

All Councilmembers then complimented and thanked Charles Lawson for his service. Mayor Esteves, on behalf of the entire City Council, presented Mr. Lawson with a commemorative plaque with appreciation from all.

Councilmember Giordano asked about the field allocation policy in Recreation Services. She requested a report to Council on that policy, after a review at the Parks, Recreation and Cultural Resources Commission, with something reported back to Council. Mr. Lawson replied that Ms. Greiner would follow up on this request.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

APPROVAL OF AGENDA

Motion: to approve the agenda as submitted

Motion/Second: Vice Mayor Livengood/Councilmember Giordano

Motion carried by a vote of:

AYES: 5

NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

City Manager Lawson announced a correction to Item No. 15, for the bid amount which should be \$8,424,991.50 for the Main Sewer Pump Station.

Mayor Esteves asked for Item No. 6 to be removed off consent calendar.

Motion/Second: Councilmember Giordano/Councilmember Gomez

Motion carried by a vote of:

AYES: 5
NOES: 0

- * 7. Add Veteran's Name to the Potential Streets Names Approved adding Mr. Michael Mihalakis's name to the Potential Streets Names List, per the recommendation of the Facilities Naming Subcommittee.
- * 8. Revisions to Sister Cities Commission Bylaws Approved the revisions to the Sister Cities Commission bylaws, as recommended by the Commission:
1) Under "Section 1 Purpose": "Commissioners are expected to volunteer time to participate in Sister City events and projects outside the regular meetings."
2) Under "Section 9 Duties of Commission to be Advisory Only": "Commissioners are also expected to actively participate in Sister City events and projects in addition to attending the regular meetings. When considering reappointments of Commission members, the City Council may review the member's service record on Commission activities and projects. At a minimum, Commissioners' should annually work on and attend at least two Sister City events and actively serve on at least one subcommittee."
- * 9. Study Carlo Street Reopening Directed staff to study Carlo Street re-opening at Abel Street and Calaveras Boulevard.
- * 11. Approval of New Banner Program Installation Approved an additional expenditure of up to \$10,300 to Sierra Display for the installation of 223 banners, 116 new hardware sets and the removal of the holiday banners. Sufficient funding exists in current year operating budgets as follows: Economic Development (\$5,500), Recycling Grant, Transportation, and Recreation (\$1,600 each).
- * 12. Appropriation to Santa Clara Co. Partnership for School Readiness Approved \$1,000 contribution from the City Council Community Promotions Budget Unallocated towards the Santa Clara County Partnership for School Readiness' 2006 Assessment Project, as recommended by the Finance Subcommittee.
- * 14. Resolution Declaring Weeds a Public Nuisance Adopted Resolution No. 7642 declaring weeds on specific properties to be a public nuisance and to set a public hearing for January 2, 2007.
- * 15. Award Construction Contract to Anderson Pacific Engineering Construction for Main Sewage Pump Station 1. Authorized City Manager to award and execute the construction contract for the Main Sewer Pump Station, Project No. 6103, to the second lowest responsible bidder, Anderson Pacific Engineering Construction, Inc. in the amount of \$8,424,991.50, subject to review by the City Attorney.
2. Additionally, awarded two bid alternates: #1 Demolition of existing pump station in the amount of \$40,000, and #2 Pre-Engineered Metal Garage Building in the amount of \$138,000, for Project No. 6103.

PUBLIC HEARINGS

1. Mixed Use building at Milpitas Blvd & Dixon Rd.: General Plan Amendment, Zone Changes and Environmental Impact Assessment

Senior Planner Dennis Carrington reviewed this project, on the site at 1880 North Milpitas Blvd. where a fire burned much of the previous structure last year. To accomplish the proposed project, a General Plan Amendment, a Zone Change, Use Permit and Environmental Impact Assessment must be approved by the City Council.

Mr. Carrington reviewed details of the proposed Mixed Use 3-story building. Windows on the north side would be frosted glass for privacy due to concerns for residential neighbors, and the dental practice would not have any significant parking impacts on the site. He distributed a colors panel and renderings of the building, for the Council to consider.

The project was found to be consistent with the General Plan and the Housing Element,

and it conformed to density requirements for the parcel size, with no significant CEQA impacts.

Councilmember Polanski inquired why there was a reduction in parking. Staff explained the tight space and tight fit of the parcel. He also explained that a review by the Transportation Engineer was done.

Mayor Esteves asked about neighborhood compatibility. Mr. Carrington responded that that one neighbor was concerned about the building height, thus the condition was added to have obscured glass on the third floor so as to preserve privacy of the neighbors.

Next, Mayor Esteves opened the public hearing; no comments were heard.

(1) Motion: to close the Public Hearing

Motion/Second: Councilmember Polanski/Vice Mayor Livengood

Motion carried by a vote of: AYES: 5
NOES: 0

The Mayor invited the applicant to come forward. Ms. Marlene Mao, a Fremont resident, stated she picked up where she left off after the building fire, and planned now to have it remodeled. She was emotional after the fire, uncertain at first what she would do, and found out about Mixed Use zoning for that site. Thus, the new design emerged.

Councilmember Polanski noted the building's plans looked good. She wondered if the owner was looking for something specific for retail on the first floor. Ms. Mow replied no, not yet, just that it would be for a business.

The project architect David Mena of San Francisco spoke next to describe the design solution, including the landscaping plans, for the significantly located property at the intersection of Dixon Landing Rd. and Milpitas Blvd.

(2) Motion: Adopt the initial Study and Draft Negative Declaration No. EA2006-9, and Adopt Resolution No. 7640 approving General Plan Amendment No. GP2005-2

Motion/Second: Vice Mayor Livengood/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

City Attorney Steve Mattas read aloud the title of Ordinance No. 38.769: "An Ordinance of the City of Milpitas Enacted as an Amendment to Chapter 10, Title XI of the Milpitas Municipal Code"

(3) Motion: Waive the first reading beyond the title of Ordinance No. 38.769

Motion/Second: Vice Mayor Livengood/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

(4) Motion: Introduce Ordinance No. 38.769 for Zone Change No. ZC2005-1

Motion/Second: Vice Mayor Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

2. Approve Major Vesting
Tentative Map for the Milpitas
Town Center project

Senior Planner Dennis Carrington reviewed the Town Center project, on Calaveras Blvd. where a great deal of construction has been occurring next door to City Hall over the past year. He reviewed details of the last segment of the redevelopment of the neighboring Town Center, including the planned 65 new townhomes on the site.

This evening, the Tentative Map was on the agenda for approval by the City Council.

Mayor Esteves opened the public hearing for testimony and no comments were heard.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: approve the Major Tentative Map No. MA 2006-4, as recommended by the Planning Commission, for the Milpitas Town Center

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA 1. CALL TO ORDER

Mayor/Agency Chairman Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 8:51 PM.

RA 2. ROLL CALL

PRESENT: Mayor/Chair Esteves, Vice Mayor/Vice Chair Livengood and Agency/Councilmembers Giordano, Gomez, and Polanski

ABSENT: None

RA 3. MEETING MINUTES

Motion: approve the Redevelopment Agency minutes of November 21, 2006, including joint meeting with the City Council, as submitted

Motion/Second: Agency/Councilmember Gomez /Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

**RA 4. Approval of Agenda and
Consent Calendar**

Motion: approve the agenda and Agency consent calendar

Motion/Second: Agency/Councilmember Gomez/ Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

* RA 5. Approve Change Order
for the Soil Remediation and
Site Preparation for new library

Authorized staff to approve a change order to the Agreement with Clean Harbors Environmental in the amount of \$29,000, for removal and disposal of additional pesticide material under the crawl space at the grammar school site, for Project No. 8154.

* RA 6. Approve Plans and
Specifications for Midtown
North Main Street Streetscape
Improvement Project

Approved plans and specifications and authorized advertisement for bid proposals for the Midtown North Main Street Streetscape Improvement Project, Phase I, Project No. 8165.

RA 7. ADJOURNMENT

REPORT OF OFFICERS

3. Councilmembers' Strategy/Budget Workshop

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 8:51 PM.

Mayor Esteves reiterated his request to hold a Councilmembers workshop and planning session, to consider strategic planning for the future. It was his proposal for the whole Council not just the Mayor. He wanted to set priorities and budget needs, with staff input and participation and an experienced facilitator.

Councilmember Polanski thought it would be appropriate to hold a workshop like this, starting out the new year, and get the Council working together as a team.

Councilmember Giordano thought it was a great idea, and that the timing was key. She wanted to ask if there was a cost factor involved. She wanted to revisit this idea in a couple months, down the line, and perhaps hold it later in March.

Councilmember Gomez was not in favor of an outside facilitator. He believed there was a lot of merit to what was proposed by the Mayor. Council should sit down in the Committee room, and discuss how to implement what were the priorities.

Vice Mayor Livengood also was supportive of the idea of a workshop. He wanted more time for the new City Manager to get on board and work with his staff. The Vice Mayor wanted to set a date at the first meeting in April perhaps. He did not think the Council needed a facilitator.

Mayor Esteves asked Tom Williams to comment on date and time. Mr. Williams reported that the sooner staff can get direction from the Council the better, as budget plan meeting start in January. The sooner to receive priorities from the Council it would help staff with budget and other planning. A comment from Mr. Lawson was that sooner would help on time for the next fiscal year's budget. Staff was already getting together this month to start budget planning/priorities for 2007.

Councilmember Polanski was ready to move forward, and while she could understand her colleagues' comments, she preferred sooner in 2007 than March.

Councilmember Giordano noted it has been two years they were together as a Council, the budget cycle would begin in January, so it's too early for the workshop. She would rather begin the budget cycle and prepare ideas then.

Councilmember Livengood noted that there were thorny issues to start talking about, like land uses industrial v. residential, and neighboring cities' plans effect on Milpitas, that were long term planning issues

Mayor Esteves felt looking at the budget as a different cycle than what he proposed. He wanted to look more long-term here, not only the budget and expense issues. He was prepared to schedule what the majority of the Council would like to do.

Motion: to approve the Mayor's recommendation for a workshop on long term planning, to return at the first April meeting in 2007 to set the actual date for the workshop. Also, continue with the normal budget cycle, and include the use of an internal facilitator (not hiring an outside person) for the workshop

Motion/Second: Vice Mayor Livengood/Councilmember Giordano

Motion carried by a vote of:

AYES: 5
NOES: 0

4. Mayor's Recommendation for \$500 Donation to Christian Record Services for Camp

Mayor Esteves explained that he received a request for a donation supporting this summer camp program for blind children, with the understanding that some Milpitas children participate.

Vice Mayor Livengood asked the City Attorney whether the use of the public money toward a religious organization was an issue. City Attorney Mattas replied no, so long as the Council did not endorse any specific religion.

Councilmember Polanski noted specifically that the money should go to an actual Milpitas resident and she wanted that to be included as part of the motion to approve.

Motion: to approve \$500 donation request for Christian Record Services Children's Blind Camp, with the direction that funds go to a Milpitas resident/participant

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

5. Report on Status of Alviso Adobe historic structure/site

City Engineer Greg Armendariz reported to the City Council, upon the request of Councilmember Livengood, on the status of the Alviso Adobe structure - on its future as a public park and historical site. It is Alviso Adobe Rehabilitation Project No. 5055. In September of 2005, some residents gave comments about concerns related to parking that affected the project planning.

Mr. Armendariz noted that two grants had been obtained for \$54,000 (for the historic building) and \$356,837 from the County of Santa Clara (for preparation of a new park). A total of eight meetings with neighboring residents and the Calvary Assembly Church have been held. He reviewed parking/traffic flow options proposed, noting that none were acceptable to Church and the residents. If project does not move forward, the City would then be obligated to return the grant money. The City could go forward with the required CEQA Negative Declaration and prepare some mitigation.

Councilmember Livengood was frustrated that the City would lose some money, for an incredible historic structure for the community. He felt the City needed to show some resolve, while just mothballing this building. It could be a premier adobe structure for the Bay Area and could be used as a museum or other facility. To lose its potential would be sad he felt. He wanted kids in the adobe to learn about history and it was not in best interest of the City to lose it.

Councilmember Gomez asked what was the trigger for the park. Mr. Armendariz explained that regional parks are those that patrons drive to, while neighborhood local parks are typically "walk-to" parks. Alviso Adobe would be in the former category, in part to make accommodations for visits from schoolchildren. Staff had been under way with a Park Master Plan, however the local neighborhood there was not supportive.

Councilmember Polanski agreed with Mr. Livengood, and the City needed to find a way to obtain access to the structure. It was unfortunate that the church was not cooperative.

Motion: instruct City staff to return to the City Council with alternatives, schedule a public hearing to advise residents and the Calvary church, so that the Council could decide next spring what to do with regard to the Alviso Adobe

Motion/Second: Vice Mayor Livengood/Councilmember Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

6. CASP Grants

Mayor Esteves removed this item off consent calendar due to his question about eligibility of grant applicants. He wanted to know why it was recommended that organizations take a one year break from funding after two years.

with the affordability. If low cost, then parameters for the program were needed.

Councilmember Gomez was not ready to give up on the program tonight. He knew that the actions from the Finance Subcommittee were not going to help at all. He would like to talk further about the option for contracting out the preschool

If additional funds were located for higher salaries for full-time staff, then the program might get some applicants, and could possibly get back up and running in the spring by perhaps March 1. Ms. Greiner stated that would cost an additional \$30,000.

Councilmember Giordano instructed to look at the numbers, and run it as if it was a full time position. It was necessary to look at forming the product in the manner that it should be, and then bring it back to Council in September. Or, staff could bring this item back to Council at the budget cycle time.

Vice Mayor Livengood noted when looking at the options, for him, only No. 2 seemed viable: contracting out. He did not hold out hope that boosting the salary per hour would take care of the current problem. He wanted to get contracting out information and did not want to walk away from this long-standing City program. With new realities of life here in the City, the Vice mayor wanted to stay committed to the idea of pre-school.

Mayor Esteves did not look at it as we should continue with pre-school or not. He wanted to continue it and that it was a service issue. He view was that the city must provide it, as this was a critical time of child development. He agreed to explore the various options presented. He would be ready to do a subsidy as a service for children and wanted to support the program financially.

Motion: defer this topic to the budget cycle, consider all options presented at this meeting, staff must return to the City Council next March with an update on recommendation for the continuation of the Milpitas Preschool

Motion/second: Councilmember Gomez/Vice Mayor Livengood

Motion carried by a vote of: AYES: 5
NOES: 0

RESOLUTION

13. MOU with the Milpitas Professional And Technical Group

Human Resources Director Carmen Valdez reported that the City and employee representatives from ProTech met and conferred in good faith. Both agreed upon the Memorandum of Understanding presented for Council approval. The total cost for the new contract was \$682,000, with the full impact in the third year of the contract.

Motion: Adopt Resolution No. 7641 approving the Memorandum of Understanding with Milpitas Professional and Technical Group for July 1, 2005 through June 30, 2008

Motion/Second: Vice Mayor Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 3
NOES: 2 (Esteves, Polanski)

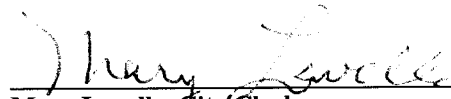
BIDS AND CONTRACTS

Item was adopted on the Consent Calendar.

ADJOURNMENT

Mayor Esteves adjourned the meeting at 10:15 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on December 19, 2006.



Mary Lavelle, City Clerk